

**In the United States District Court
For the Southern District of Georgia
Waycross Division**

FILED
U.S. DISTRICT COURT
BRUNSWICK DIV.
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CLERK Carbell
SO. DIST. OF GA.

SIBONGISENI MFUNDO MSEZANE,

Petitioner,

v.

PATRICK GARTLAND,

Respondent.

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CIVIL ACTION NO.: 5:19-cv-51

ORDER

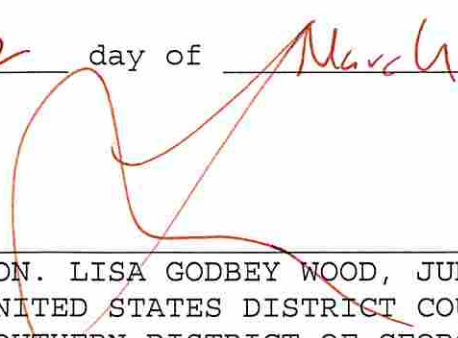
After an independent and de novo review of the entire record, the Court concurs with the Magistrate Judge's Report and Recommendation. Dkt. No. 16. Petitioner Sibongiseni Msezane ("Msezane") filed Objections to this Report and Recommendation. Dkt. No. 17.

In his Objections, Msezane asserts "[c]laims of U.S. citizenship are transferred to District Court for evidentiary findings[]" and that the district court has subject matter jurisdiction over habeas petitions raising nationality issues. Id. at pp. 1, 3-4. Msezane cites Rivera v. Ashcroft, 394 F.3d 1129 (9th Cir. 2004), and INS v. St. Cyr, 533 U.S. 289 (2001), as support for these assertions. Id. at pp. 1, 3. However, Rivera, St. Cyr, and other cases which have been used in support

of these contentions have been superseded by the REAL ID Act of 2005. Fairclough v. Holder, No. CV311-013, 2011 WL 2111723, at *1 (S.D. Ga. May 26, 2011) (recognizing the REAL ID Act superseded cases supporting district courts' jurisdiction over "habeas citizenship claims"). Msezane offers nothing in his Objections which raises a question regarding this Court's lack of jurisdiction under 28 U.S.C. § 2241 to entertain his derivative citizenship claims. Dkt. No. 16, pp. 5-6.

Accordingly, the Court **OVERRULES** Msezane's Objections and **ADOPTS** the Magistrate Judge's Report and Recommendation as the opinion of the Court. The Court **GRANTS in part** and **DENIES in part** Respondent's Motion to Dismiss. The Court **DISMISSES** without prejudice Msezane's citizenship claims, **DENIES** as moot Msezane's Motion to Expedite, and **ORDERS** Respondent to file a responsive pleading to Msezane's 8 U.S.C. § 1226(c) detention claims within 21 days of this Order.

SO ORDERED, this 2 day of March, 2020.



HON. LISA GODBEY WOOD, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA